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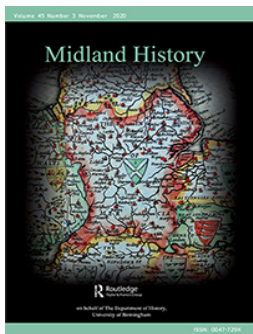
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# 'The Source of All Local Authority': The Role of Gloucestershire Magistrates in Local Government 1800-1834

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## ABSTRACT

This article examines the impact of magistrates on one of the most critical areas of local government, the English welfare system. It does this by employing a micro-political survey of Gloucestershire parishes who implemented one specific welfare reform, Gilbert's Act 1782. It focuses on the interplay between parishes and particular local magistrates to illuminate the diverse impact justices had on welfare practice. This approach shows how the input of magistrates was highly variable and individualized. Magisterial intervention did not ensure strict compliance to statute, but rather application of relief reflected their 'discretion' in the implementation of the poor law, where they deigned to participate with it. By demonstrating magisterial influence was strategically and operationally applied, this article also suggests that the impact of justices was more pervasive than previously acknowledged and highlights the need for further research to reappraise understanding of the justices' role in Georgian society.

## KEYWORDS

Justices; magistrates; poor law; local government; Georgian; Gloucestershire

## Introduction

In the Georgian period, domestic policy was primarily devolved to the English localities to administer under the supervision of local magistrates. Thus, county justices assumed responsibility for aspects as diverse as upkeep of bridges and the welfare of the aged, on top of their traditional remit of law and order. Unfortunately, while their judicial practice has been extensively examined, the broader economic and social functions they fulfilled in the regulation of local issues have not been adequately explored. Peter King, for one, observes 'recent scholars have paid little attention to the Justices' role, mentioning it in passing, but not evaluating it in detail, while at the same time remaining extremely ambivalent about its potential impact'.<sup>1</sup> This article seeks to redress this imbalance by focusing on one of the most important areas of local government, the English

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S. and B. Webb, *English Local Government from the Revolution to the Municipal Corporations Act: The Parish and the County* Vol. 1 (London: Longmans Green, 1906), p. 391.

<sup>1</sup>P. King, 'The Rights of the Poor and the Role of the Law,' in *Obligation, Entitlement and Dispute under the English Poor Laws*, ed. by P. Jones and S. King (Cambridge: Cambridge Scholars, 2015), p. 235.

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welfare system, described by David Eastwood as 'the normative political institution in rural England'.<sup>2</sup>

At the beginning of the nineteenth century, the relief system, popularly known as the 'poor law' was the pre-eminent concern of parochial government. Its organization based on legislation passed in the reign of Elizabeth I which by 1700, according to Paul Slack, had become a 'national welfare system'.<sup>3</sup> Under this provision, amended by subsequent settlement legislation, every parish was responsible for maintaining its poor.<sup>4</sup> This was paid for by compulsory local taxation and managed through the mechanism of the 'vestry', a committee of parish ratepayers, onto whose shoulders control over a wide range of local government was entrusted. However, while parishes were expected to put the able-bodied to work and support those unable to maintain themselves, the actual arrangements were primarily left to the communities themselves to fix. The system had become gradually more elaborate over the centuries. From the late seventeenth century, workhouses became popular as a method of relief. They became according to Dorothy Marshall 'the favourite panacea for all the social ills of the eighteenth century'.<sup>5</sup> This trend was recognized in law, by the Workhouse Test Act or Knatchbull Act 1723, which allowed parishes to set up a workhouse without recourse to a local Act.<sup>6</sup> While most parishes organized welfare through unpaid parish officials, called overseers, it was also popular to contract provision out to what was known as a 'farmer of the poor.' Vestries and overseers were themselves bound in varying degrees (depending on local circumstances) to magistrates. In the context of poor relief, local magistrates were supposed to sign off overseer appointments, audit accounts and provide a mechanism for pauper appeals.

According to Peter Dunkley, 'the system [also] provided substantial opportunities for the magistrates to direct the administration of relief'.<sup>7</sup> Given this circumstance, one might have expected magistrates to have drawn much interest from researchers, however, outside of issues of legal settlement and appeals, there remains considerable doubt about what they may or may not have done in respect to the poor law.<sup>8</sup> It may also be surprising given wider historiographical debates in criminal justice. Most pertinently,

<sup>2</sup>D. Eastwood, *Governing Rural England: Tradition and Transformation in Local Government 1780-1840* (Oxford: Oxford University Press, 1994), p. 100.

<sup>3</sup>Anthony Brundage acknowledges there was earlier legislation, but that 'the Elizabethan Poor Law was the first to set up a mandatory system of publicly financed poor relief throughout England and Wales.' For background on the legal framework of the old poor law see – P. Slack, *The English Poor Law, 1531-1782* (Cambridge: Cambridge University Press, 1995), quote p. 14; A. Brundage, *The English Poor Laws, 1700-1930* (Basingstoke: Palgrave, 2002). Jonathan Healey describes the arrival and growth of poor relief in Lancashire in Chapter 2 *The First Century of Welfare: Poverty and Poor Relief in Lancashire 1620-1730* (Woodbridge: Boydell Press, 2014).

<sup>4</sup>The Settlement and Removal Act (14 Car. II c. 12) and its subsequent amendments regulated those who had 'settlement' in a parish and thereby had a right to apply for poor relief.

<sup>5</sup>D. Marshall, *The English Poor in the Eighteenth Century* (Oxford: Routledge, 1969), p. 47. Slack discusses the growing popularity of workhouses and the reasons for it. Slack, pp. 32-7.

<sup>6</sup>The Workhouse Test Act (9 Geo. I c.7) influenced by workhouse contractor Matthew Marryott who helped to establish a number of institutions in the East Midlands between 1718 and 1723 following success in Buckinghamshire. See Chapter 4, T. Hitchcock, 'The English Workhouse: A Study in Institutional Poor Relief in Selected Counties, 1696-1750' (PhD thesis, University of Oxford, 1985).

<sup>7</sup>P. Dunkley, *The Crisis of the Old Poor Law, 1795-1834* (New York: Taylor & Francis, 1982), p. 48.

<sup>8</sup>E.g. N. Landau, 'The Laws of Settlement and the Surveillance of Immigration in Eighteenth-Century Kent,' *Continuity and Change*, 3 (1988), 391-420; N. Landau, 'The Regulation of Immigration, Economic Structures and Definitions of the Poor in Eighteenth-Century England,' *The Historical Journal*, 33, 3 (1990), 541-571; Keith Snell, 'Pauper Settlement and the Right to Poor Relief in England and Wales. The Eighteenth-Century Context of the Laws of Settlement,' *Continuity and Change*, 6 (1991), 375-439; B. K. Song, 'Landed Interest, Local Government, and the Labour Market in England, 1750-1850,' *The Economic History Review*, 51, 3 (1998), 465-488.

King showed that in the late Georgian period, the justice system was not shaped by the central government, the courts of Westminster or even by parliamentary legislation but by magistrates at the 'margin'. He and others have noticed justices used considerable 'discretion' in their local application of the law.<sup>9</sup> Allied to this there has been a recent burgeoning of literature which focuses on justices in proceedings at a summary level. Here they provided mediation and arbitration in cases, to such an extent, that they provided a filter, easing pressure on higher courts.<sup>10</sup> In the discharge of this, magistrates delivered a system that was both flexible and adaptive, in order 'to provide useful solutions to problems based on notions of policy, of justice and of the need to keep the peace in the communities whose members brought cases to them.'<sup>11</sup> Much of the literature references the concept of magistrates' discretion in its execution which could involve him acting in a legally questionable way.<sup>12</sup> What is more, not only did magistrates use discretion in their interpretation of the law, but they did so with little oversight, which should have been provided by the body of the King's Bench. Douglas Hay has demonstrated, not only was the supervision by the King's Bench rarely utilized but even when it was, magisterial ignorance, illegal commitments to gaol and malicious refusal of bail was being tolerated. Consequently, the 'King's Bench effectively protected the action of most provincial justices from being questioned, curbed or controlled by those whom they judged.'<sup>13</sup>

These findings could have implications for other areas of the justices' role. It seems credible that if they applied discretion with little supervision in respect to criminal justice, they could, just as easily, apply the same to their administration of the poor law. Indeed, recently, Joseph Harley noticed that on the administration of pauper inventories, justices sometimes used the law in ways which were legitimate and sometimes in ways which were not. He wrote 'some justices of the peace even supported the inventorying of pauper goods, even though parishes lacked the requisite legal authority to do so.'<sup>14</sup> Although the adoption of permissive legislation suggests they required at least the semblance of statutory authority, I contend that magistrates had considerable latitude in their reading and application of the poor law. The rest of this article looks at

<sup>9</sup>P. King, *Crime, Justice and Discretion in England, 1740-1820* (Oxford: Oxford University Press, 2000); P. King, 'The Summary Courts and Social Relations in Eighteenth-Century England,' *Past and Present*, 183 (2004), 125-72; P. King, *Crime and Law in England, 1750-1840: Remaking Justice from the Margins* (Cambridge: Cambridge University Press, 2006); See also S. Hindle, *On the Parish?: The Micro-Politics of Poor Relief in Rural England c.1550-1750* (Oxford: Oxford University Press, 2004); D. Sugarman and G. R. Rubin, 'Towards a New History of the Law and Material Society in England, 1750-1914', in *Law, Economy and Society, 1750-1914: Essays in the History of English Law*, ed. by G. R. Rubin and D. Sugarman (Abingdon: Professional Books, 1984), pp. 47-52.

<sup>10</sup>For London context see – D. Gray, *Crime, Prosecution and Social Relations: The Summary Courts of the City of London in the Late Eighteenth Century* (London: Palgrave Macmillan, 2009); Douglas Hay also examines the use of arbitration by magistrates in a study of master/servant disputes in industrial and rural areas. D. Hay, 'Patronage, Paternalism and Welfare: Masters, Workers and Magistrates in Eighteenth-Century England,' *International Labour and Working-Class History*, 53 (1998), 27-48; See also P. King, 'The Summary Courts'.

<sup>11</sup>King, *Crime and Law in England*, p. 29; See also G. Morgan and P. Rushton, 'The Magistrate, the Community and the Maintenance of an Orderly Society in Eighteenth-Century England,' *Historical Research*, 76, 191 (2003), 54-77.

<sup>12</sup>Gwenda Morgan and Peter Rushton's article on the magistrate, Edmund Tew, is a fascinating insight into summary level justice in action. It included doing things which he was not legally empowered to do. Morgan & Rushton. King makes a similar point, for example, the tendency of magistrates to deal with cases of theft at a summary level. King, *Crime and Law in England*, p. 8.

<sup>13</sup>D. Hay, 'Dread of the Crown Office: The English Magistracy and King's Bench, 1740-1800' in *Law, Crime and English Society, 1660-1830*, ed. by N. Landau (Cambridge: Cambridge University Press, 2002), pp. 21-47; See also Hay, 'Patronage, Paternalism, and Welfare.'

<sup>14</sup>J. Harley, 'Pauper Inventories, Social Relations, and the Nature of Poor Relief under the Old Poor Law, England, c.1601-1834,' *The Historical Journal*, 62, 2 (2019), 384.

this through the implementation of one piece of welfare legislation, the Better Relief and Employment of the Poor Act, or as it was popularly known, Gilbert's Act which was passed in 1782.<sup>15</sup>

## Gilbert's Act

Gilbert's Act has been associated with 'a new wave of humanitarian feeling' at the end of the eighteenth century, and its sponsor the backbench M.P. Thomas Gilbert labelled a 'humanitarian.'<sup>16</sup> It contrasted with the last general reform of the poor law passed by Parliament, the Workhouse Test Act 1723, which was based on the experience of Matthew Marryott in Buckinghamshire.<sup>17</sup> Under Marryott's deterrent model, the workhouse provided the only parish relief available to the poor. The resulting legislation was permissive, but it offered parishes a legal framework to provide a workhouse and delivered a great incentive to the creation of workhouses thereafter.

Gilbert's Act which passed sixty years later allowed parishes to do several things. Firstly, and without the need to create a private act of Parliament, they could unite with other parishes to provide poor relief, although parishes could also decide to adopt the regime on their own.<sup>18</sup> Secondly, adoptees were expected to create a workhouse. Gilbert observed within a workhouse setting; the able-bodied 'disturb the peace and quiet of the old and infirm and generally consume the best provisions.'<sup>19</sup> For this reason, under this model, the able-bodied were excluded from his institutions.<sup>20</sup> Instead, the unemployed able-bodied were found work, and if this did not pay a living wage, then their income was supplemented.<sup>21</sup> A provision was also made for paid officials, called 'guardians' who looked after the day-to-day administration of welfare.<sup>22</sup> The Act was a permissive piece of legislation; parishes had to 'opt-in' to its provisions. It was adopted after a public meeting of ratepayers, and a majority of two-thirds had voted in its favour. It then had to be further endorsed by two magistrates.<sup>23</sup> For Gilbert, the role played by the judiciary was integral to the success of his plan. Not only did adoption require their consent, but he hoped they would be drawn into welfare administration in a supervisory role, called 'visitor of the poor'.<sup>24</sup> This faith was perhaps unsurprising, as he

<sup>15</sup>22 Geo. III c. 83.

<sup>16</sup>Marshall, p. 159.

<sup>17</sup>S. and B. Webb, *English Local Government: English Poor Law History: Part 1. The Old Poor Law* (London: Longmans Green, 1927), p. 120; Slack, p. 35. Besides the Workhouse Test Act, a number of local Acts were created through the eighteenth century which allowed groups of parishes to provide their own solutions to poor relief. There were also several other general attempts to reform the poor law system which failed, see A. Digby, *Pauper Palaces* (London: Routledge & Kegan Paul Ltd, 1978). For accounts of reform which were not enacted see Webb, *English Local Government: English Poor Law History*, pp. 265-72. For the broader context and the difficulty inherent in the creation of social reform in the period and the importance of magistrates therein see J. Innes, 'Parliament and the Shaping of Eighteenth-Century English Social Policy', *Transactions of the Royal Historical Society*, 40 (1990), 63-93.

<sup>18</sup>22 Geo. III c.83. Clause IV.

<sup>19</sup>Gilbert, *Plan for the Better Relief and Employment of the Poor*, p. 7.

<sup>20</sup>22 Geo. III c.83. Clause XXIX stated 'That no person sent to shall be sent to any such Poor House or Houses, except such as are become indigent by old age, sickness, or infirmities, and are unable to acquire maintenance by their labour; and except such orphan children...; and except such children, as shall necessarily go with their mothers.'

<sup>21</sup>22 Geo. III c.83. Clause XXXII. According to some commentators, Gilbert's Act facilitated the development of the Speenhamland system by enshrining, in law, the principle which allowed the making up of wages for those in receipt of out relief. See G. Nicholls, *A History of the English Poor Law* (London: John Murray, 1854), p. 90; Webb, *English Local Government: English Poor Law History*, pp. 172-3; D. Eastwood, *Government and Community in the English Provinces 1700-1870* (Basingstoke: Palgrave, 1997), p. 131.

<sup>22</sup>There are many clauses within the Act which refer to the appointment or responsibilities of the guardian. These include 22 Geo. III c.83. Clause VII, VIII, X, XII, XVII, XXIV.

<sup>23</sup>22 Geo. III c.83. Clause III and IV.

observed the magistrate ‘is an office of great trust and importance, upon which the well-being of this country, in a great measure, depends.’<sup>25</sup>

In the early nineteenth century and over the space of twenty-five years, fifteen diverse villages and towns in Gloucestershire decided to opt-in to the provisions of Gilbert’s Act. The majority were small parishes clustered around the Forest of Dean. They comprised of Abenhall, Arlingham, Awre, Flaxley, Littledean, Mitcheldean, Newland, Newent and Newnham. A further three were on the edge of the Cotswolds made up of Fairford, and two of the county’s larger towns the fashionable Cheltenham Spa and the market town of Cirencester. There was only one in the woollen cloth manufacturing area around Stroud, at Painswick; and a further two to the north of Bristol, at Westbury-on-Trym and Winterbourne.<sup>26</sup> The majority of these parishes implemented the Act not in a union but as singular units. Once Gilbert’s Act was adopted, only three parishes (Cirencester, Fairford and Painswick) relinquished its use, choosing another piece of permissive legislation, the Sturges Bourne Acts, before the enactment of the Poor Law Amendment Act in 1834 that overhauled the entire system.<sup>27</sup>

## Gloucestershire Magistrates & Gilbert’s Act

This article looks at how magistrates influenced the implementation of Gilbert’s Act in Gloucestershire 1800–1834, to cast some light on their role in welfare provision, and by implication on local government more broadly. The Act provides an interesting vehicle for this study; its creator, Thomas Gilbert, put much faith in magistrates. He used their experience and political influence to help craft his legislation and hoped that when implemented on the ground, their input would ensure it was both popular and effective.<sup>28</sup>

<sup>25</sup>Gilbert, *Plan for the Better Relief and Employment of the Poor*, p. 27.

<sup>26</sup>Gilbert adoptions are minuted in vestry recording at Awre, Cirencester, Cheltenham, Flaxley, Painswick, Westbury-on-Trym and Newnham. At Newent adoption was reported in poor law returns in 1803. Unfortunately, no vestry recording has survived for the period 1801–1804. The magistrates’ resolution provides evidence for at Winterbourne. While for Arlingham it comes from the observations from the Assistant Commissioner, Robert Weale, who likewise noted Gilbert’s adoptions for Awre, Littledean, Flaxley, Abenhall and Mitcheldean for which there is additional evidence. Evidence for Fairford which has no vestry minutes is provided by correspondence to the Poor Law Commission before the creation of the new poor law union, and several entries in the overseer’s accounts which directly reference the Act. At Newland, where primary sources are scant, the evidence is provided by notes and a copy of the contract signed with the farmer of the poor which refers explicitly to the workhouse being run under Gilbert’s Act. Gloucestershire Archives (GA), Q/RW/1, Resolution of Winterbourne Parish to Provide a Workhouse and Adopt the Provisions of Gilbert’s Act 1810; The National Archives (TNA), MH12/3980, Correspondence with Cirencester Poor Law Union 1834–1842, 9 January 1836; TNA, MH12/4236, Correspondence with Westbury-on-Severn Poor Law Union 1835–1842, 7 September 1835; GA, D1070/IX/12 Fairford Overseers Accounts and Papers, 1795–1809; GA, P227 OV 9/2, Newland Overseers Papers; *Abstract of Answers and Returns under Act for Procuring Returns Relative to Expense and Maintenance of Poor in England*, (London: House of Commons Papers, 1803–4), p. 172.; GA, P30a VE 2/1 Awre Vestry Minutes 1770–1846, 9 January 1822 and 18 January 1822; GA, P228 VE 2/1, Newnham Order Book 1813–1838, 19 October 1815, 21 December 1821; GA, P145 OV 2/1, Flaxley Overseers Accounts Including Occasional Vestry Minutes 1788–1891, 8 April 1823; Bristol Archives (BA), P.HTW/OP/2a,, Westbury-on-Trym Minutes and Proceedings Respecting the Establishment of a Workhouse BA, P.HTW/OP/2(b), Westbury-on-Trym Order Book containing a copy of the Poor House Minutes 1796–1805, 14 January 1801; GA, P78/1 VE 2/2, Cheltenham Vestry Minutes 1794–1822, 14 August 1810, 21 August 1810, 11 September 1810, 23 April 1811; GA, P86/1 VE 2/1, Cirencester Vestry Minutes, 27 April 1810; GA, P244 VE 2/16, Painswick Select Vestry Minutes 1808–1817, 21 August 1817.

<sup>27</sup>These Acts (58 Geo. III c.69 and 59 Geo. III c. 12.) were enacted in 1818 and 1819. Despite these new reforms Gilbert’s Act continued to be adopted by parishes in Gloucestershire into the 1820s.

<sup>28</sup>L. Ryland-Epton, ‘The Impact of Back Benchers in the Creation of Social Reform: “The Indefatigable and Honourable Exertions of Mr Gilbert”’, *Parliamentary History*, 39, 2 (2020).



Gloucestershire may not be an obvious choice of location. Steven King, in his regional assessment of poverty and welfare, places the county in the west of England. This region he surmised was one in which relief was overall less generous, and entitlement criteria more strictly applied than in the south and east. By contrast, areas in East Anglia and south-east England, more commonly associated with the adoption of Gilbert's Act were characterized as more benign and regimes prepared to spend more.<sup>29</sup> However, according to the Webbs and Esther Moir who wrote a book on the Gloucestershire judiciary, the local magistrates Bench was particularly capable, and, enjoyed a close relationship with the central government.<sup>30</sup> While the county may not be associated with the take-up of Gilbert's Act, from the late eighteenth century, the county became associated with social policy, albeit regarding prison reform, promoted by the Justice Sir George Onesiphorus Paul. Moir noted, through this work 'the Gloucestershire Bench was to be amongst the first body of men to take effective action to relieve the wretched state of one of the most ill-treated and neglected elements of eighteenth-century society.'<sup>31</sup> One might have expected, therefore, that Gloucestershire justices would have been exceptionally proficient in the implementation of an Act which was explicitly designed to enhance magisterial power and influence and was on a subject that was of specific interest. In the event, this was only partially true. The following analysis shows, perhaps unsurprisingly given magistrates' discretion, that even under the same legislation their contribution to the organization of the poor law was hugely varied. Despite, adhering (in the assessment of local stakeholders) to Gilbert's Act, local arrangements in Gloucestershire parishes which adopted it were instead tailored to suit local conditions. Sometimes this was in line with its provisions, sometimes not. So that whatever the aspirations of Thomas Gilbert in the provisions of the Act and his trust in magistrates to execute them, its implementation under the oversight of justices potentially meant very little. However, while this study gives some weight to the notion of 'welfare republics', the idea that under the old poor law there existed a multitude of poor law practice as potentially numerous as parishes in the country.<sup>32</sup> It should be set against the fact that by adopting and implementing Gilbert's Act, magistrates were nominally setting their actions within a particular legislative framework.

The sources utilized in this piece are broader than those which have been employed by the only two authors, Samantha Shave and Anne Digby, who examine the implementation of Gilbert's Act in-depth; or by Peter Dunkley, one of the few historians to consider the influence of magistrates on poor law. These researchers have focused on official records, national and local.<sup>33</sup> By contrast, for this article, newspapers, pamphlets, trade directories, diaries, and even travel guides have been

<sup>29</sup>S. King, *Poverty and Welfare in England 1700-1850: A Regional Perspective* (Manchester: Manchester University Press, 2000).

<sup>30</sup>See Webb, *English Local Government from the Revolution to the Municipal Corporations Act*; E. Moir, *Local Government in Gloucestershire 1775-1800* (Bristol: Bristol and Gloucestershire Archaeological Society, 1969), p. xiv, see Chapters 5 and 6.

<sup>31</sup>Moir, p. 75.

<sup>32</sup>Hindle; L. Hollen Lees, *The Solidarities of Strangers: The English Poor Laws and the People, 1700-1948* (Cambridge: Cambridge University Press, 1998).

<sup>33</sup>S. Shave, *Pauper Policies: Poor Law Practice in England 1780-1850* (Manchester: Manchester University Press, 2017); S. Shave, 'Poor Law Reform and Policy Innovation in Rural Southern England, c.1780-1850' (PhD thesis, University of Southampton, 2010); Digby; Dunkley.



investigated alongside vestry minutes, overseers' accounts, and sources from the Petty and Quarter Sessions and central government returns; to reconstruct and to nuance the administration of Gloucestershire parishes using Gilbert's Act, and illuminate the role of magistrates.

By the early 1820s, Gilbert's Act was nominally adopted by Gloucestershire parishes with a combined population of over 40 000 or approximately 12 per cent of the county population.<sup>34</sup> The decision to adopt the framework was largely not the result of encouragement by the Chairman of magistrates on the Gloucestershire Bench, but rather by justices much closer to the ground.

In the mining district of the Forest of Dean towards the Welsh borders, five parishes, Abenhall, Awre, Flaxley, Littledean and Mitcheldean, all contiguous to the eastern edge of the area agreed to adopt it in the space of a year 1822–3.<sup>35</sup> Of these three, Flaxley, Littledean and Abenhall formed a titular union under Gilbert's Act. In the tiny village of Flaxley, with a population of 196 and a total of twelve ratepayers', the resolution was made when three magistrates attended a vestry meeting.<sup>36</sup> This participation at a parish assembly was not the usual practice of local justices to this point but probably required on this occasion to ensure the ratepayers voted appropriately. Their authorization was also required to validate the ratepayers' vote. Justices Maynard Colchester, Sir Thomas Crawley-Boevey and Rev. Charles Crawley, and one other Joseph Pyrke, who was likewise locally associated with Gilbert's Act, all attended the proceedings of the Petty Sessions at nearby Newnham. In Gloucestershire, the Petty Session provided summary jurisdiction and officiated minor matters. Magistrates at the Newnham Sessions made extensive use of the local House of Correction at Littledean.<sup>37</sup> In the same year that Gilbert's Act was adopted, Rev. Crawley was also both visiting magistrate and briefly chaplain to the House of Correction.<sup>38</sup> Each magistrate lived in one of the five local parishes which adopted Gilbert's Act. All wielded considerable local influence. At Littledean, for example, Colchester was Lord of the Manor, Pyrke had a substantial estate and Crawley-Boevey had significant financial interests.<sup>39</sup> The Pyrke family monument in the local church reminded the population the family had been 'in the neighbourhood since the Conquest.'<sup>40</sup> This group enjoyed cordial relations according to local accounts, and two were brothers.<sup>41</sup>

Despite the important role played by these men, these Gloucestershire villages were not all closed parishes. Proponents of the open-closed model suggest there was a link

<sup>34</sup>This figure, 40 211, is based on the population of these fifteen parishes in the 1821 census. The total population of the ancient county of Gloucestershire was 332 316. Figures from <<http://www.visionofbritain.org.uk>> [accessed September 16, 2019].

<sup>35</sup>The nearby parish of Newnham re-confirmed an earlier commitment to do the same. GA, P228/VE/2/1, Newnham Order Book 1813–1838, 21 December 2026 December 1821, 14 January 1822.

<sup>36</sup>GA, P145 OV 2/1, Flaxley Overseers Accounts Including Occasional Vestry Minutes 1788–1891, 8 April 1823.

<sup>37</sup>GA, Memorandum of Convictions, 1828–1834 (E.g. Q/PC/2/48/A1–2, 11, 13–117; Q/PC/2/48/B3–4, 7, 17; Q/PC/2/49/C8–10; Q/PC/2/50/A1, 3; Q/PC/2/52/A8–9, 11–15; Q/PC/2/52/C31–39; Q/PC/2/54/A62–64). See also GA, Q/GLI/3/1, Littledean House of Correction Day Book which lists those committed and discharge by which magistrate.

<sup>38</sup>J. R. S. Whitting, *A House of Correction* (Gloucester: Alan Sutton, 1979), p. 92; See also GA, Q/GLI/3/1, Littledean House of Correction Day Book.

<sup>39</sup>N. M. Herbert, *A History of the County of Gloucester: Vol. V* (Oxford: Oxford University Press, 1996), pp. 163–4.

<sup>40</sup>Moir, p. 48.

<sup>41</sup>Sir Thomas Crawley-Boevey and Rev. Charles Crawley were brothers. While Crawley-Boevey was Lord of the Manor, his brother was the local curate. The history of Crawley-Boevey, Pyrke and Maynard Colchester are discussed in the whiggish H. G. Nicholls, *The Personalities of the Forest of Dean* (London: John Murray, 1863). These families also feature in Herbert.

between the ownership of property and other dimensions of local life.<sup>42</sup> Closed parishes had consolidated land ownership, a high proportion of population employed in agriculture, low population density and a low poor relief burden. Byung Kung Song used the model to explain the relationship between local economic circumstances and poor law provision in neighbouring Oxfordshire.<sup>43</sup> While, in 1831 at Flaxley landownership, as represented by the proportion of local land tax paid, rested predominantly in the hands of Sir Crawley-Boevey and employment was dependent on agriculture. In Littledean ownership was more mixed, less than half in the hands of Colchester, and significantly employment was based on retail, handicrafts and non-agricultural labouring.<sup>44</sup> Flaxley had a lower population density than Littledean.<sup>45</sup> Poor rates before the adoption of Gilbert's Act were 2s/£ at Flaxley and 9s 6/£ at Littledean.<sup>46</sup> It suggests that Flaxley was a strong closed parish; while Littledean was more typical of an open one. However, both parishes adopted the same tightly managed regime under the same contractor. There was a determinant which outweighed the explanatory or predictive connection between the fact they were open or closed parishes and their welfare provision, the influence of the judiciary.

In a recent book, Shave has suggested parishes adopted Gilbert's Act because of the potential cost benefits of organizing themselves into unions, or because they wished to provide better care to the vulnerable.<sup>47</sup> However, the justices in this area used the legislation to set a policy direction to ensure all parishes in the immediate district were utilizing workhouse provision. In practice, it was not in the manner Thomas Gilbert had anticipated. In the three Forest parishes of Littledean, Flaxley and Abenhall, where these justices' economic and social influence was most reliable, contrary to Gilbert's Act provisions, and over a decade before the Poor Law Amendment Act endorsed similar provision nationwide, the Littledean workhouse provided the only relief available to inhabitants of the three villages.<sup>48</sup> The workhouse did not merely accommodate the vulnerable. Instead, by solely offering help within its walls, its use was intended to curb relief applications.

Once the three vestries had voted to adopt the legislation, the arrangements were left to the supervision of one magistrate, Joseph Pyrke, who continued to attend meetings, acted as a 'treasurer' and signed off on the contractual arrangements. The presence of Pyrke did not ensure that Gilbert's Act was followed or even that decisions made at the vestry were lawful.<sup>49</sup> The administration of the central workhouse was quickly

<sup>42</sup>For an examination of the model see A. Jackson, 'The "Open-Closed" Settlement Model and the Interdisciplinary Formulations of Dennis Mills: Conceptualising Local Rural Change,' *Rural History*, 23, 2 (2012), 121-136.

<sup>43</sup>B. K. Song, 'Parish Typology and the Operation of the Poor Laws in Early Nineteenth-Century Oxfordshire,' *Agricultural History Review*, 50 (2002), 203-224.

<sup>44</sup>In Flaxley, Crawley-Boevey paid over 80% of the tax paid or £120 out of £153. At Littledean, Colchester paid £29 out of £64. In Littledean only 25 out of 153 adult males were employed in agriculture compared to 25 out of 47 in Flaxley. GA, Q/REL/1/StBriavels/1831, Gloucestershire Land Tax Return, 1831; *Abstract of Population Returns of Great Britain*, 1831 (London: House of Commons Papers, 1833), pp. 204-5.

<sup>45</sup>*Abstract of Population Returns of Great Britain*, 1831 (London: House of Commons Papers, 1833), pp. 204-5.

<sup>46</sup>*Abstract of Answers and Returns under Act for procuring Returns relative to Expense and Maintenance of Poor in England*, (London: House of Commons Papers, 1803-4), p. 172.

<sup>47</sup>Shave, *Pauper Policies: Poor Law Practice in England 1780-1850*, pp. 66, 68-9.

<sup>48</sup>Under Gilbert's Act provisions, the able-bodied were supposed to be found work in the community, and any deficiency in earnings was to be made up by outdoor relief. If the pauper refused work, they were to be sent to the House of Correction. See 22 Geo. III c.83. Clause XXXII.

<sup>49</sup>For example, he was present when 5-yearly contractual arrangements were agreed with the farmer of the poor (under Gilbert's Act they were supposed to be agreed yearly see 22 Geo. III c.83. Clause II) and when the badging of paupers was approved, something which had been made unlawful in 1810 (50 Geo. III c.52).

contracted out to Richard Elmore, an established local farmer of the poor.<sup>50</sup> He ran it as a pin factory.<sup>51</sup> The result of his strict regime was a sharp reduction in the cost of welfare and attributed to a decline in the local population.<sup>52</sup>

The actions of these magistrates, in a broader context, suggests poor relief was used as part of a campaign to marginalize the most economically vulnerable, in an area with a reputation of independence, lawlessness and riot.<sup>53</sup> For example, Crawley-Boevey, Maynard Colchester and Pyrke were both justices and verderers. As one of the four verderers (appointed for life) they were responsible for local 'forest law', the ancient system which governed activities taking place within the Forest.<sup>54</sup> Their powers under this system were augmented during this period, while the traditional rights of foresters were eroded. It included such measures as the abolition of the court of the free miners. Crawley-Boevey and Colchester were also Forest commissioners. They thereby directly oversaw the planting of thousands of acres of trees in enclosed plantations which likewise had dire consequences on the ability of foresters to mine and graze livestock.

Thus, the input of justices from the start had not ensured the regime applied was closely aligned to the provisions of Gilbert's Act. Nonetheless, the vestries fervently believed they were using it, despite having to argue the point with a highly sceptical Assistant Commissioner of the Poor, sent from London in 1835, who initially failed to recognize it as such. Assistant Commissioner, Robert Weale, noted in his first letter referencing the parishes assertions 'there is no union under that Act nor are any of its provisions in use', but later conceded Gilbert's Act had been applied.<sup>55</sup> These forest communities were not alone in subverting the provisions of Gilbert's Act in this way. In the closing years of the old poor law, the idea of using workhouses as part of a deterrent regime gained some renewed traction; possibly inspired by the work of magistrate Rev. John Thomas Becher.<sup>56</sup> In Nottinghamshire, Becher made use of Gilbert's Act to incorporate forty-nine parishes into the Thurgarton Gilbert's Union and then exploited the provisions of the Workhouse Test Act to apply a deterrence regime. Coincidentally, this was within twelve months of Littledean's adoption of Gilbert's Act.<sup>57</sup> However, while contemporaries sometimes noted the use of both Acts, in connection to Thurgarton, it was not deemed problematic, probably acknowledging that Becher had the right to follow some provisions of these Acts and not others.<sup>58</sup> However, later

<sup>50</sup>These parishes included Leonard Stanley, Eastington, Littledean, Abenhall and Flaxley. E.g. GA, P201 VE 2/1, Leonard Stanley Vestry Minutes 1819-1890, 25 September 1823 and 4 October 1824; GA, Eastington Overseers Accounts 1777-1825 28 June 1825 (back page); GA, P127 OV 2/2, Eastington Overseers Accounts 1777-1825, 6 July 1824; GA, P110/VE/2/1, Littledean Vestry Minutes 1811-1830, various including 15 April 1825; GA, P1 VE 2/1, Abenhall Vestry and Annual Parochial Church Minutes; GA, P145 OV 2/1, Flaxley Overseers Accounts including Occasional Vestry Minutes 1788-1891.

<sup>51</sup>GA, P110/VE/2/1, Littledean Vestry Minutes 1811-1830, 24 December 1823, 23 March 1824.

<sup>52</sup>For example, the amount spent in Littledean on the contract reduced year on year from £240 in 1822/3 to £165 in 1828/9. GA, Littledean Vestry Minutes 1811-1830, 22 November 1822, 25 March 1828; E.A. Christmas, 'Administration of the Poor Law in some Gloucestershire Unions 1815-1847' (PhD thesis, University of Bristol, 1973), p. 90.

<sup>53</sup>Moir, pp. 122, 147; Herbert, pp. 381.

<sup>54</sup>Herbert, pp. 354-377; C. Hart, *The Verderers and Forest of Dean Laws* (Lydney: Lightmoor Press, 2005); H. G. Nicholls, *The Forest of Dean: A Historical and Descriptive Account* (1858; repr. Milton Keynes: Dodo Press, 2010), pp. 80-105; J. G. Wood, *The Laws of the Dean Forest* (London: H. Sweet, 1878), pp. 43-73.

<sup>55</sup>TNA, MH12/4236, Correspondence with Westbury-on-Severn Poor Law Union, 1835-1842, 7 September 1835, 23 September 1835.

<sup>56</sup>This experiment was publicized in Becher's work, *The Anti-Pauper System* (London: W. Simpkin & R. Marshall, 1828).

<sup>57</sup>J. Rickman, *Administration of the Poor Laws* (London: John Rickman, 1832), pp. 20-21; Webb, *English Local Government: English Poor Law History*, pp. 254-260. See also Becher, *The Anti-Pauper System*.

<sup>58</sup>A. Mundell, *The Philosophy of Legislation* (London: Longman, 1834), p. 115.

Sidney and Beatrice Webb used this example to depict the failure of Gilbert's Act, particularly how its provisions could easily be 'perverted'.<sup>59</sup>

In Gloucestershire at Newnham, where the local Petty Sessional court presided, the magistrates active at Littledean were less of a presence within the vestry meetings. However, the court gave them an immediate opportunity to influence local poor relief through the communication of orders directly to the committeemen. In turn, the vestry committee made representations to the magistrates for their help, and the relationship between the two bodies was congenial. The opportunities the law gave the community to encourage certain moral behaviours amongst the poor were grasped with enthusiasm. For example, the threat of prosecution for bigamy was used against a local woman, Sarah Milwater, and settlement legislation exploited to remove the rest of her family from the town, 'to prevent her continued notorious profligacy of conduct and imposition on the parish.'<sup>60</sup> Again, while poor relief was administered under Gilbert's Act, magistrates acted in ways that were not in strict accord with it. For instance, in 1821, they informed the vestry that *anyone* paying rates above a level 'should have an apprentice put to them.' It led to a number of poor children being allocated out to ratepayers following a 'ballot.' The vestry recording suggests some negotiation over who took which child.<sup>61</sup> Indeed, some likely took an apprentice under duress as magistrates could order fines on those who failed to comply.<sup>62</sup> One girl, apprenticed at the minimum legal age of nine, was subjected to some unspecified abuse and was returned to her family, who were given extra relief for her care. Magistrates intervened applying a fine on the perpetrator, her 'master'. The vestry followed with another stopping short of prosecution, due to his remorse but deferred final judgement to the magistrates.<sup>63</sup> While Gilbert's Act encouraged the placement of children as apprentices, it was with certain safeguards. Gilbert, himself, wrote, 'it seems to be a duty incumbent on the visitor to be very cautious in the choice of masters for these poor children', and he added that the arrangements should be 'inspected' for the duration of the apprenticeship. Under the provisions of his legislation, the visitor to the poor was supposed to ensure apprentices were 'properly treated.'<sup>64</sup> However, in Newnham, the appointment of a visitor to the poor was one provision amongst a number that was ignored, and magistrates remained one step removed from the implementation of relief.

In other parishes holding Petty Sessions, magistrates were again able to direct poor relief administration without the need to attend frequent vestry meetings or undertake particular roles. However, the provisions of Gilbert's Act were by contrast followed. At the fashionable Cheltenham Spa, magistrates once more used the law in collaboration with the vestry to police public morality. Perhaps because this was a leisure town illegitimate births were a recurring motif. As the Act prescribed, the workhouse was used for vulnerable groups, and the management structure of a guardian and visitor to the poor observed, although it was a local gentleman rather than magistrate who took the role of visitor. Nonetheless, local magistrates supported the Gilbert's Act regime.

<sup>59</sup>Webb, *English Local Government: English Poor Law History*, pp. 276, 259.

<sup>60</sup>GA, P228 VE 2/1, Newnham Order Book 1813-1838, 5 June 1821.

<sup>61</sup>GA, Newnham Order Book 1813-1838, 3 July 1821, 21 August 1821, 4 September 1821.

<sup>62</sup>Hindle, p. 203.

<sup>63</sup>GA, Newnham Order Book 1813-1838, 21 August 1821, 4 September 1821, 2 October 1821, 10 October.

<sup>64</sup>22 Geo. III c. 83 Clause XXX; Gilbert, p. 49.

The most interesting manifestation of this, was probably their defence of the idea that local welfare was both humanely and effectively organized. Most significantly, in 1829, when several allegations of misconduct were circulated, magistrates fervently denied them in the press. Finally, at a vestry meeting, no less than eight justices vouched for the conduct of the guardian which led the vestry, albeit at a bitterly contested assembly, to rule against their appointed sub-committee, who had found that he had acted fraudulently in his post.<sup>65</sup> In all probability, with the parish eager to encourage elite visitors to the spa, it was to perpetuate the notion that this was a 'genteel' town.

Magistrates, however, did not always get their way. In Mitcheldean, in the Forest of Dean, local people had maintained some independence from magisterial influence after their adoption of Gilbert's Act, such as by refusing to use Richard Elmore, the 'farmer of the poor' employed at Littledean. The vestry also continued to provide relief outside the workhouse.<sup>66</sup> Instead, parish minutes and accounts suggest that an engaged community of ratepayers managed poor relief. Their decisions overall demonstrated both assertiveness and compassion. For example, the awarding of the contract for the provision of relief did not always go to the lowest bid, and the treatment of some paupers went well beyond the standards required by the legislation.<sup>67</sup> A notable example is that of Ann Bailey, who suffered from mental health issues, and was given an apartment at the workhouse by March 1828. The contractor was ordered 'not to interfere' with her but told to supply her with coal.<sup>68</sup> At this stage of her illness, her residency appears to have been planned to provide safe refuge. However, her health deteriorated at the end of 1829, and she was then locked in a room. Bailey later broke out, was returned to the institution. Finally, her behaviour necessitated a commitment to Gloucester Lunatic Asylum. However, she recovered sufficiently by 1832 for preparations to be made for her return to her home. 'Her clothes were aired, her house whitewashed, cleaned and warmed through and coal brought.'<sup>69</sup> Nonetheless, she remained confined to the asylum.<sup>70</sup> But, the vestry continued to show an interest in her condition and, one of the churchwardens was asked to call into the asylum to ascertain how she was.<sup>71</sup> Although the regime was benevolent and nominally using Gilbert's Act provisions, any resemblance of the regime to the legislation seems likely to have been coincidental. For example, there was no guardian or visitor to the poor.

In 1831, the people of the broader Forest area rioted, aggrieved at the infringement of their traditional grazing and mining rights over local wastes.<sup>72</sup> In Mitcheldean, the Lord of

<sup>65</sup>*Cheltenham Chronicle*, 31 January 1829, 7 February 1829; *Cheltenham Chronicle*, 21 May 1829; *Cheltenham Journal and Gloucestershire Fashionable Weekly Gazette*, 22 June 1829; GA, P78/1 VE 2/3, Cheltenham Vestry Minutes, 1822-1858, undated April 1829.

<sup>66</sup>GA, P220 VE 2/4, Mitcheldean Vestry Minutes 1822-1830, 23 February, 2 March, 5 March 1827 March, 19 March 1822 December 1823.

<sup>67</sup>The lowest bid was not taken in 1825 and 1831. When the vestry did accept it in 1824 the minutes state William Davies and Nathaniel Williams 'do agree to become bound in a bond to the churchwardens and overseers of the poor of the parish of Mitcheldean for the due performance of the contract entered into by Charles Smith...' see GA, Mitcheldean Vestry Minutes 1822-1830, 17 March 1824, 29 March 1824, March 1825, 20 April 1831.

<sup>68</sup>GA, P220 VE2/4, Mitcheldean Vestry Minutes 1822-1830, 19 March 1828, 5 April 1829.

<sup>69</sup>GA, P220 OV 2/1, Mitcheldean Overseers Accounts 1790-1828; GA, P220 MI4, The Poor in Mitcheldean 1660-1834, compiled by B. S. Smith as Tutor of University of Bristol Extra-Mural Class, 1962.

<sup>70</sup>GA, The Poor in Mitcheldean 1660-1834.

<sup>71</sup>GA, P220 VE 2/5, Mitcheldean Vestry Minutes 1830-1852, 26 March 1833.

<sup>72</sup>For an account of the 1831 riots, see R Antis, *Warren James and the Dean Forest Riots* (Forest of Dean: The Author, 1986).

the Manor was magistrate Maynard Colchester who was directly associated with these grievances in his capacity as both a forest commissioner and verderer. He dealt with rioters during the disturbance *and* afterwards when he tried a number of the resultant cases at the Newnham Petty Sessions.<sup>73</sup> Colchester was also both on the pre-trial grand jury *and* witness at the main trial in Gloucester.<sup>74</sup> These actions were at least potentially prejudicial to the accused and seemed to prove detrimental to his local relations. In Mitcheldean, the vestry went on the offensive. It ordered a survey of Colchester's estate when 'discrepancies' were found in the parish map and measurement of his property, used for local poor rate purposes. This was a provocative act towards Colchester's authority over the town. Perhaps it is no surprise that the episode precipitated internal disagreement at the vestry.<sup>75</sup> Colchester engaged a firm of solicitors to raise a complaint, but the vestry retaliated by hiring their own.<sup>76</sup> The disagreement pulled the vestry apart, as some of the committee tried to remain loyal to Colchester. In consequence, no poor rate could be agreed. The issue was only resolved when it was referred up to the Court of the King's Bench, in London, for a final decision.<sup>77</sup>

At Cirencester, in the Cotswolds area in the east of the county, there was another Petty Sessional court. Local magistrates took an attitude to the application of Gilbert's Act which was both in keeping with its provisions and resolutely hands-on. No fewer than five magistrates had been present at the public meeting which endorsed the Act.<sup>78</sup> Magistrates also took a proactive role in the day to day administration of welfare by assuming the positions of the visitor to the poor and guardian. Unlike justices at Littledean who had presided over a deterrent regime and used the workhouse for everyone, at Cirencester the workhouse was used for the most vulnerable. One amongst those magistrates who acted as a visitor to the poor was Rev. Henry Pye who did so 1810–1818. Only the very last visitor to the poor, Thomas Byrch, was not a justice. However, he was a political supporter of Joseph Cripps, probably the most influential magistrate in Cirencester. Byrch was likely an ally trusted to execute the magistrates' administrative plans.<sup>79</sup> Cripps was an ardent philanthropist, businessman and one of the town's two M.P.s.<sup>80</sup> He was 'hands-on' throughout the regime at vestry meetings and as treasurer and guardian from 1810, despite many other commitments. Two of his family members were also magistrate guardians.<sup>81</sup> Cripps was a keen social reformer.

<sup>73</sup>Antis, p. 172.

<sup>74</sup>*Cheltenham Chronicle*, 18 August 1831.

<sup>75</sup>GA, Mitcheldean Vestry Minutes 1830–1852, 16 September 1831, 18 April 2021 April, 3 August 2021 September, 7 December 1832, 4 January 2024 May 1833.

<sup>76</sup>GA, Mitcheldean Vestry Minutes 1830–1852, 7 February 1834.

<sup>77</sup>GA, Mitcheldean Vestry Minutes 1830–1852, 30 May 1834. See also *Gloucestershire Chronicle*, 14 June 1834.

<sup>78</sup>These J.P.s were: – Joseph Cripps, Henry Pye, Richard Selfe, Edward Wilbraham and William Lawrence. GA, P86/1 VE 2/1, Cirencester Vestry Minutes, 27 April 1810.

<sup>79</sup>GA, Cirencester Vestry Minutes, including 27 April 1810, 30 March 1812, 24 April 1813, 22 April 1814, 14 April 1815, 11 April 1816, 17 April 1818. For a listing of Gloucestershire magistrates in this period see GA, Q/SN/3, Nomina Ministrorum.

<sup>80</sup>Cripps was M.P. 1806–1812 and 1818–1841. D. R. Fisher, ed., *The History of Parliament: The House of Commons 1820–1832* (Cambridge: Cambridge University Press, 2009). <<https://www.historyofparliamentonline.org/volume/1820-1832/member/cripps-joseph-1765-1847>> [accessed December 2, 2019]; R. Thorne, ed., *The History of Parliament: The House of Commons 1790–1820* (London: Boydell & Brewer, 1986). <<http://www.historyofparliamentonline.org/volume/1790-1820/member/cripps-joseph-1765-1847>> [accessed December 2, 2019]; GA, Cirencester Vestry Minutes; Moir, p. 169.

<sup>81</sup>Edward Cripps was designated as a guardian through the entire duration of Gilbert's Act in the town, and Charles Cripps was a guardian for twelve years. GA, P86/1 VE 2/1. Cirencester Vestry Minutes, examples include 14 April 1815, 11 April 1816, 17 April 1818, 25 April 1823, 7 May 1824.



He sponsored bills that included one which regulated parish apprenticeships and provided protections to children under increased magisterial supervision. In his youth, he had attempted to 'farm' the poor of Cirencester himself.<sup>82</sup>

Despite the input by magistrates in Cirencester the provisions of Gilbert's Act were still adapted to suit local needs, and from 1812 the management of the poor was delegated to a governor of the poor, William Chamberlain.<sup>83</sup> The function of the magistrate 'guardians' is likely to have become supervisory rather than operational. A further alteration was made in 1818 when Chamberlain was appointed as a salaried overseer to collect in the rates.<sup>84</sup> Three magistrates witnessed this order despite its ambiguous legal basis under the Gilbert's Act framework which had no provision for paid overseers.<sup>85</sup>

The articulation of Gilbert's Act here was as elsewhere in the county, down to the aspirations and thoughts of individual magistrates. These could be subject to change. After the enactment of the Poor Law Amendment Act in 1834, Assistant Poor Law Commissioner Robert Weale met early with parochial officers and resident magistrates at Cheltenham. Weale's role was to form local parishes into a poor law union under the new legislation. It required Cheltenham, the largest parish in the vicinity, to relinquish its use of Gilbert's Act. Weale anticipated magisterial resistance to the Poor Law Amendment Act but happily reported 'not one word was said in opposition to it, but union approved, much was said in commendation.' After a further meeting with magistrates, he was able to state a 'complete revolution has taken place in the public mind and the measure is now as palatable as it was the reverse.'<sup>86</sup> Later, Weale attributed much of his success in unionizing 170 parishes across Gloucestershire 'to the zealous co-operation which I have uniformly met with from the magistrates.'<sup>87</sup>

In Cirencester, magisterial interest in poor law provision was positively invigorated by the new legislative overhaul. Cripps became chair of the guardians of the Cirencester Poor Law Union, one of sixteen ex-officio magistrates co-opted onto the board.<sup>88</sup> A few months into its implementation, Cripps who had once been so active in his support of Gilbert's Act, declared of the new system 'no Bill ever did or could have worked better than it had in the union in which he lived.'<sup>89</sup> Local magistrates in their desire to exercise their power over the new apparatus overstepped their prerogatives by delaying the election of guardians to the board. It precipitated the Poor Law Commissioners in London to remind them to do so with haste.<sup>90</sup> Indeed, the enthusiasm with which the Union adopted the new regime meant that at times they took the new ethos to its extreme, particularly by choosing a dietary so strict that inmates were fed one third less solid food than paupers in workhouses in London Unions. It

<sup>82</sup>GA, Cirencester Vestry Minutes, 29 April 1791; Nicholls, *A History of the English Poor Law*, pp. 194-6; See also fn. 80.

<sup>83</sup>Two magistrates Thomas Masters and Edward Wilbraham were acting as guardians, and fellow magistrate Henry Pye was the visitor to the poor. GA, Cirencester Vestry Minutes, 15 May 1811.

<sup>84</sup>GA, Cirencester Vestry Minutes, 17 April 1818.

<sup>85</sup>These were Henry Pye, Joseph and Edward Cripps. The obligations of overseers under Gilbert's Act are described 22 Geo. III c.83. Clause VII and VIII.

<sup>86</sup>TNA, MH12/3912, Correspondence with Cheltenham Poor Law Union 1835-1842, 15 October 1835, 24 October 1835.

<sup>87</sup>*The Second Annual Report of the Poor Law Commissioners for England and Wales* (London: House of Commons Papers, 1836), p. 334.

<sup>88</sup>Magistrates residing in a union automatically became poor law guardians by virtue of their position. GA, G/CI/8a/1, Cirencester Poor Law Union Minutes, 22 January 1836.

<sup>89</sup>*London Evening Standard*, 28 February 1837.

<sup>90</sup>TNA, MH12/3980, Correspondence with Cirencester Poor Law Union 1834-1842, 2 April 1836.



was reported countrywide but particularly drew comment in the *Times* and north of England, as part of the anti-new poor law rhetoric. Gloucestershire newspapers were quiet on the subject, but by 1838 the *Gloucestershire Chronicle* stated it had been 'so much deprecated in the public papers' that the town was notorious for being 'possessed of being the lowest of any Union in England-both the quantity and quality of food.' Cripps defended the dietary in parliamentary discussion in his role as M.P. for the town, something he would be called upon to do as late as 1843.<sup>91</sup>

Not all magistrates, however, were interested in participating in the implementation of social policy. At Stroud Petty Sessions, in Gloucestershire's industrial centre, justices seem to have been unconcerned about officiating in welfare administration in respect to Gilbert's Act. The only local adoptee was at nearby Painswick. Here the vestry adopted it after local justices at the Sessions appear to have advised them that if they wanted to take on a salaried parish officer to manage poor relief, they needed to do so under Gilbert's Act provision.<sup>92</sup> Local magistrates then left its implementation to the vestry. It is probably significant that there was no magistrate resident in the parish at the time. The vestry committee with no magisterial oversight took on Daniel Spring, perhaps a local builder, as a 'guardian' of the poor.<sup>93</sup> They then ignored all the other provisions in the Act and left Spring to carry out his duties as he saw fit. Thomas Gilbert was highly critical of poor relief systems which placed excessive power in the hands of individuals without proper oversight. The 1782 Act contained measures to restrict the possibilities of corruption with paid officials who operated under the supervision of a visitor to the poor, as opposed to a system which relied on unpaid overseers who both collected in rates and distributed relief. In Painswick the experiment was short-lived, and Spring was found to have syphoned hundreds of pounds from the parish rates.<sup>94</sup> When a young magistrate, William Henry Hyett, moved into the parish in 1822 and began to participate at vestry meetings, the parish more successfully adopted the Sturges Bourne Acts. This mechanism allowed the parish to place poor relief under the control of a select vestry.<sup>95</sup>

<sup>91</sup> A committee of guardians created the workhouse dietary in November 1836 after which it was published and drew comment. *Gloucestershire Chronicle*, 3 March 1838. Newspaper coverage includes:- *The Times*, 27 November 1837, 29 November 1837, 7 February 1838, 12 March 1841, 24 February 1842; *Reading Mercury*, 12 August 1837; *London Evening Standard*, 8 August, 27 November 1837, 24 February 1843; *Berkshire Chronicle*, 12 August 1837; *Wiltshire and Gloucestershire Standard*, 12 August 1837, 28 February 1843; *John Bull*, 13 August 1837, 12 February 1838; *Blackburn Standard*, 16 August 1837; *Hull Packet*, 18 August 1837; *Bolton Chronicle*, 19 August 1837, 7 April 1838; *Leeds Intelligencer*, 26 August 1837; *Leeds Times*, 2 September 1837; *Northern Liberator*, 24 February 1838; *Evening Mail*, 17 November 1841; *Gloucester Journal*, 25 February 1843; *Evening Chronicle*, 24 February 1843; See also GA, G/CI 8a/1, Cirencester Law Union Minutes, 21 November 1836.

<sup>92</sup> The mechanism applied to the arrangement of poor relief in Painswick, had since 1741, swung between the usages of a paid official, often called a 'general overseer', to the more typical practice of unpaid overseer. A salaried officer to dispense poor relief was not new, but it seems by 1817 Gilbert's Act adoption was required to legitimize this custom. The public meeting at which Gilbert's Act was formerly adopted quickly followed a vestry consultation with magistrates 'on the propriety of appointing a general overseer.' GA, P244 VE 2/16, Painswick Vestry Minutes, 1808-1817, 14 August 1817; W. J. Sheils, *History of the County of Gloucester: Vol. XI* (Oxford: Oxford University Press, 1976), pp. 79-80.

<sup>93</sup> GA, P244 VE 2/16, Painswick Select Vestry Minutes, 1808-1817, 21 August 1817. In *Pigot's Directory of Gloucestershire, 1830* Daniel Spring is listed as a builder and carpenter.

<sup>94</sup> GA, P244 VE 2/17, Painswick Vestry Minutes, 1817-1827, 5 February 1824, 4 March 1824, 6 May 1824, 21 October 1824, 11 November 1824; GA, Painswick Select Vestry Minutes, 1823-1832, 15 May 1823, 26 May 1823, 9 June 1823.

<sup>95</sup> GA, Painswick Vestry Minutes, 1817-1827, 25 September 1822, 18 December 1822, 31 March 1823, 19 June 1823, 27 June 1823. He was a magistrate from 1821, see GA, Q/JQ/1/3, Oaths of Qualification, 1810-1837. His obituary in the local paper described his long-standing interest in social policy see *Gloucestershire Journal*, 17 March 1877, p. 8.

## Conclusion

This article has considered the role of magistrates and demonstrated the significant impact and many permutations their influence had on the operation of the poor law in Gloucestershire under Gilbert's Act. They did not ensure the provisions of the legislation were followed. Instead, the expression of Gilbert's Act in parishes where magisterial influence was applied may or may not have been in line with its tenets depending on the perspective of individual justices, and the power they were able to wield over local communities and vestries in particular. Thus, their interventions were based upon legislation but were implemented, or not, using their 'discretion' to interpret the law as they saw fit. Individual magistrates, also, used their judicial practice to support or augment their role within local government and society.

The direction and depth of their impact was defined at a highly localized level, far removed from the Quarter Sessions or Assizes, traditionally associated with their input in the management of the poor law. Instead, under Gilbert's Act at least, it was at Petty Sessions or within the parish itself that these interactions were best characterized. A magistrate's residency within or near to a parish and the proximity of a Petty Sessions is likely to have been influential. Magistrates had a tremendous potential impact on the operation of social policy and local government in Gloucestershire when they were both available and open to participation with it. Sometimes magistrates' contributions had unforeseen consequences. For example, their capacity to disregard Gilbert's Act's safeguards meant their input did not provide a corrective to abuse.

This article examines the role of magistrates in just a few parishes. It suggests more consideration is required to understand the full implications of magisterial discretion and agency, particularly in the broader context of the late Georgian state and governance.

## Notes on contributor

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